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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/562,220

05/25/2006

Achim Wiest

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EXAMINER

RAEVIS, ROBERT R

ART UNIT

PAPER NUMBER

2856

MAIL DATE

DELIVERY MODE

11/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/562,220 | Applicant(s) WIEST ET AL. | |
| | Examiner Robert R. Raevis | Art Unit 2856 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/23/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claims 11-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

On p. 7, what does “won” (line 25) mean?

As to claims 11 and 19, what does “winning” mean?

As to claims 11 and 19, how is a “correction, or calibration, factor” (line 3 from last of claim 11, line 14 of claim 19) determined? The specification makes reference to a “correction factor K” (p. 6, line 25) that relates to the equation on the bottom of page 6; and then makes reference to a “K1 the profile correction factor” (p. 7, line 3); and the finally refers to a “correction factor M” (p. 7, line 27). Which *one of the three* factors of pages 6 and 7 related to the “factor” (line 3 from last of claim 11, line 14 of claim 19) of claims 11 and 19; and how is the factor determined? Please note that both claim 11 lists two determinations (lines 6-8, and 12-13) and two winnings (“winning” (lines 9 and 14), but the last three lines of claim 11 do not seem to employ all of the determined/won data. This is also the situation for claim 19.

Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 11, what does “winning” (lines 9,14) mean?

As to claim 15, “the mathematical model” (line 2) lacks antecedent basis.

As to claim 17, does the “determining” (line 2) related to the “of the ultrasonic sensors” (last line), and thus “are determined” (last line) should be deleted as duplicative; or in the alternative, isn’t determining of the “coordinates” (line 2) the same as determining (“determined”, last line) “the ultrasonic sensor” (last line), and this is duplicative?

As to claim 18, the phrase “of the sound emergence, or sound incidence, surface of an ultrasonic sensor” (lines 2-3) is confusing as it’s not clear what the alternatives are.

As to claim 19, “the ultrasonic sensor” (lines 2-3), “the measuring tube” (line 4), “the flow measuring device” (lines 10-11) lack antecedent basis; what does “winning” (lines 7,12) mean?; what does “the sound emergence, or sound incidence, surface of the ultrasonic sensor” (lines 12-20) mean? (What are the alternatives that are suggested by the “or” (line 19)? Also, the preamble calls for a device (i.e. “gage” (line 1) while the body of the claim calls for a method. Which of the two is this claim limited to?

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevs whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 5:30am to 3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams, can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)

/Robert R. Raevis/

Primary Examiner, Art Unit 2856